



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2016 MAR 29 AM 11:05

March 29, 2016

MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: Alec Palmer *PCO*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: Kristin D. Roser/Marlene Colucci *MC*
Reports Analysis Division
Compliance Branch

SUBJECT: Reason To Believe Recommendation -2015 Year-End Report for the
Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2015 Year-End Report in accordance with 52 U.S.C. § 30104(a). The Year-End Report was due on January 31, 2016.

The committees listed in the attached RTB Circulation Report either failed to file the report, filed the report no more than thirty (30) days after the due date (considered a late filed report), or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 C.F.R. 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers, in their official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.

2. Send the appropriate letters.

NON-RECEIVED

3/29/2016 11:58 AM

Federal Election Commission
Reason to Believe Circulation Report
2015 YEAR-END Not Election Sensitive 01/31/2016 H_S_P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
3038	C00572537	AMERICANS SOCIALLY UNITED		CARY L. PETERSON	\$233,949	0		Not Filed	\$233,949 (est)	\$7,150
3039	C00577536	AUGUST WOLF FOR SENATE	AUGUST L. WOLF	JOHN PASCAL	\$904,813	0	3/21/2016	Not Filed	\$320,311	\$9,800
3040	C00554253	CLAITOR FOR CONGRESS	DANIEL A. CLAITOR	CHELSEA BONNECAZE	\$120,518	3		Not Filed	\$120,518 (est)	\$8,662
3041	C00254573	EDDIE BERNICE JOHNSON FOR CONGRESS	EDDIE BERNICE JOHNSON	RANDY WHITAKER	\$406,749	0	2/12/2016	12	\$94,069	\$1,760
3042	C00574442	EDWARD TROY HOLLIDAY		NANCY SHARON YOUNG	\$280,730	1	2/9/2016	9	\$926	\$90
3043	C00555862	FOUNDATION FOR A GREATER AMERICA INC		JAMES P. HODGINS	\$725,746	1		Not Filed	\$725,746 (est)	\$14,437
3044	C00423731	INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139		TERRANCE MCGOWAN	\$327,379	0	2/8/2016	8	\$211,176	\$2,500
3045	C00564294	ORMAN FOR US SENATE INC	GREGORY JOHN ORMAN	WYNN ROYCE JENNINGS	\$193,081	0	2/10/2016	10	\$15,485	\$160
3046	C00192849	PLUMBERS AND PIPEFITTERS LOCAL UNION 74		MARK R. PERMAR	\$155,910	3	2/16/2016	16	\$105,976	\$4,655
3047	C00567685	USA FIRST PAC		CABELL HOBBS	\$268,712	0	2/21/2016	21	\$49,052	\$620

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation - 2015)
Year End Report for the Administrative)
Fine Program:)
AMERICANS SOCIALLY UNITED, and) AF# 3038
PETERSON, CARY L as treasurer;)
AUGUST WOLF FOR SENATE, and) AF# 3039
JOHN PASCAL as treasurer;)
CLAITOR FOR CONGRESS, and) AF# 3040
CHELSEA BONNECAZE as treasurer;)
EDDIE BERNICE JOHNSON FOR) AF# 3041
CONGRESS, and WHITAKER, RANDY)
MR. as treasurer;)
EDWARD TROY HOLLIDAY, and) AF# 3042
YOUNG, NANCY SHARON as treasurer;)
FOUNDATION FOR A GREATER) AF# 3043
AMERICA INC, and HODGINS, JAMES P)
MR. as treasurer;)
INTERNATIONAL UNION OF) AF# 3044
OPERATING ENGINEERS LOCAL 139,)
and TERRANCE MCGOWAN as treasurer;)
ORMAN FOR US SENATE INC, and) AF# 3045
WYNNE ROYCE JENNINGS as treasurer;)
PLUMBERS AND PIPEFITTERS LOCAL) AF# 3046
UNION 74, and MR MARK R PERMAR as)
treasurer;)
USA FIRST PAC, and HOBBS, CABELL) AF# 3047
as treasurer;)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on March 31, 2016 the Commission took the following actions on the Reason To Believe Recommendation - 2015 Year End Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated March 29, 2016, on the following committees:

AF#3038 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICANS SOCIALLY UNITED, and PETERSON, CARY L in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3039 Decided by a vote of 6-0 to: (1) find reason to believe that AUGUST WOLF FOR SENATE, and JOHN PASCAL in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3040 Decided by a vote of 6-0 to: (1) find reason to believe that CLAITOR FOR CONGRESS, and CHELSEA BONNECAZE in her official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3041 Decided by a vote of 6-0 to: (1) find reason to believe that EDDIE BERNICE JOHNSON FOR CONGRESS, and WHITAKER, RANDY MR. in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3042 Decided by a vote of 6-0 to: (1) find reason to believe that EDWARD TROY HOLLIDAY, and YOUNG, NANCY SHARON in her official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3043 Decided by a vote of 6-0 to: (1) find reason to believe that FOUNDATION FOR A GREATER AMERICA INC, and HODGINS, JAMES P MR. in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3044 Decided by a vote of 6-0 to: (1) find reason to believe that INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139, and TERRANCE MCGOWAN in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3045 Decided by a vote of 6-0 to: (1) find reason to believe that ORMAN FOR US SENATE INC, and WYNNE ROYCE JENNINGS in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3046 Decided by a vote of 6-0 to: (1) find reason to believe that PLUMBERS AND PIPEFITTERS LOCAL UNION 74, and MR MARK R PERMAR in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

AF#3047 Decided by a vote of 6-0 to: (1) find reason to believe that USA FIRST PAC, and HOBBS, CABELL in his official capacity as treasurer violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Federal Election Commission
Certification for Administrative Fines
March 31, 2016

Page 4

Attest:

March 31, 2016
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

16162710807



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 22, 2016

Terrance McGowan, in official capacity as Treasurer
International Union of Operating Engineers Local 139
N27 W23233 Roundy Drive
P.O. Box 130
Pewaukee, WI 53072

C00423731
AF#: 3044

Dear Mr. McGowan:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Year-End Report of Receipts and Disbursements every calendar year. This report, covering the period July 1, 2015 through December 31, 2015, shall be filed no later than January 31, 2016. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on February 8, 2016, eight (8) days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On March 31, 2016, the FEC found that there is reason to believe ("RTB") that International Union of Operating Engineers Local 139 and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before January 31, 2016. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$2,500. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$2,500 is due within forty (40) days of the finding, or by May 10, 2016, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive
Level of Activity: \$211,176
Number of Days Late: 8
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must include the AF# (found at the top of page 1

under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or May 10, 2016. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that International Union of Operating Engineers Local 139 and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. You should make payment within 30 days of receipt of this letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

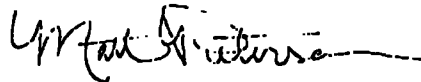
5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chair

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$2,500 for the 2015 Year-End Report. The payment is due within 30 days of receipt of this letter.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: International Union of Operating Engineers Local 139

FEC ID#: C00423731

AF#: 3044

PAYMENT DUE DATE: May 10, 2016

PAYMENT AMOUNT DUE: \$2,500

BAUM SIGMAN AUERBACH & NEUMAN, LTD.

Attorneys and Counsellors

200 West Adams Street, Suite 2200
Chicago, IL 60606-5231
312.236.4316
312.236.0241 (Fax)

N27 W23233 Roundy Drive
Pewaukee, WI 53072

May 6, 2016

Brian C. Hlavin
Admitted in IL and WI

Direct dial 312-216-2567
bhlavin@baumsigman.com

Federal Election Commission
Office of Administrative Review
999 E Street, N.W.
Washington, DC 20463

Re: C00423731 AF#: 3044
Our File Number: 26874

Dear Sir or Madam:

We are the attorneys for the International Union of Operating Engineers, Local 139 Federal PAC. We are writing to appeal the decision of the Commission dated March 31, 2016, assessing a fine against the Local 139 PAC in the amount of \$2,500.

The Local 139 PAC is requesting that the fee be waived, as the late filing was primarily due to difficulties with the FEC filing software, followed by the press of other matters. To the extent that the FEC still intends to assess a fine; as discussed below, it was improperly calculated and should be reduced.

At the outset, we note that the Local 139 PAC has timely filed its reports since its inception in 2009. This late filing was a one time occurrence which will not be repeated. The Local 139 PAC only started electronically filing its reports with the July 2015 filing, with all previous filings done on paper. The Local 139 PAC only began filing electronically because it was required to do so after its reportable transactions exceeded the FEC's threshold requiring electronic filing. Thus, the Local 139 PAC had to learn how to use the FEC's software. Respectfully, we note that the software is challenging to use on a good day. Put simply, if allowed to file on paper, there is no question that the filing would have been timely.

The Local 139 PAC attempted to file its report on January 28, 2016. However, the software malfunctioned, necessitating that it be uninstalled and reinstalled. By the time the software was operational again, other pressing matters required the attention of the Local 139 PAC's responsible filer. While attempts were made to enter the necessary information during the week of February 1, 2016, the software gave error messages preventing the entries from being processed. The first date on which it was practical to devote the substantial time necessary to address the software difficulties was February 8, 2016. The Local 139 PAC called the FEC help line, at which time the operator was

BAUM SIGMAN AUERBACH & NEUMAN, LTD.
Attorneys and Counsellors



Federal Election Commission
May 6, 2016
Page 2

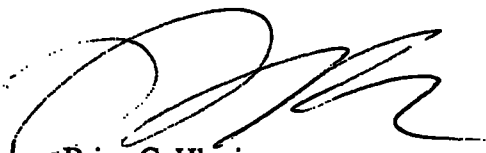
able to identify settings which needed to be changed to allow the entries to be properly processed and the report filed. As it turned out, by uninstalling and reinstalling the software, certain settings returned to default and had to be reentered. The Local 139 PAC made good faith efforts to timely file its report, has a history of doing so, and did file just one week past the due date. Accordingly, the Local 139 PAC respectfully requests that the fine be waived.

If the FEC is not inclined to waive the fine, we further note that it was improperly calculated. The due date was January 31, 2016, a Sunday. Thus, the Local 139 PAC had until the close of the next business day, Monday, February 1, 2016, to file the report. Under FEC regulations, the due date is excluded in calculating any fines. 11 CFR 111.2. Accordingly, the fine should only be assessed for February 2, 2016 through the date of filing, February 8, 2016, seven days rather than eight.

If you have any questions or would like to discuss this matter further, please feel free to contact me.

Sincerely,

BAUM SIGMAN AUERBACH & NEUMAN, LTD.



Brian C. Hlavin

BCH/ww

cc: Terrance E. McGowan (via e-mail)
Steve Buffalo (via e-mail)

\\A139\FEC\Federal Election Commission 05-06-16 bch.ww.wpd



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

2016 JUL -8 AM 9:57

July 8, 2016

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Rhiannon Magruder *RM PCO*
Reviewing Officer
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 3044 – International Union of
Operating Engineers Local 139 and Terrance McGowan, in his official capacity as
Treasurer (C00423731)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation. After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

July 8, 2016

**REVIEWING OFFICER RECOMMENDATION
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 3044 – International Union of Operating Engineers Local 139 and Terrance E. McGowan,
in his official capacity as Treasurer (C00423731)

Summary of Recommendation

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$2,500 civil money penalty.

Reason-to-Believe Background

The 2015 Year-End Report was due on January 31, 2016. The Committee filed the report on February 8, 2016, 8 days late. The report is not election sensitive and was filed less than 30 days after the due date; therefore, the report is considered late. 11 C.F.R. §§ 111.43(d)(1) and (e)(1).

On March 31, 2016, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2015 Year-End Report and made a preliminary determination that the civil money penalty was \$2,500 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on March 31, 2016 to notify them of the Commission's RTB finding and civil money penalty.

Legal Requirements

The Federal Election Campaign Act ("Act") states that the treasurer of a political committee not authorized by a candidate shall file a report for the period ending December 31 no later than January 31 of the following calendar year. 52 U.S.C. § 30104(a)(4)(A)(iv) and 11 C.F.R. § 104.5(c)(2)(B). Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

Summary of Respondents' Challenge

On May 12, 2016, the Commission received the written response ("challenge") from the respondents' counsel requesting that the penalty be waived. Counsel explains that the 2015 Year-End Report was late "primarily due to difficulties with the FEC filing software, followed by the press of other matters." Counsel notes that this was the Committee's first late filing since its inception in 2009 and reassures the Commission future filings will be timely.

Counsel explains that the Committee recently crossed the electronic filing threshold and filed its first electronic report in July 2015. The Committee has found FECFile challenging to use, and states "...if allowed to file on paper, there is no question that the filing would have been timely." Counsel further explains:

[The Committee] attempted to file its report on January 28, 2016. However, the software malfunctioned, necessitating that it be uninstalled and reinstalled. By the time the software was operational again, other pressing matters required the attention of [the Committee's] responsible filer. While attempts were made to enter the necessary information during the week of February 1, 2016, the software gave error messages preventing the entries from being processed. The first date on which it was practical to devote the substantial time necessary to address the software difficulties was February 8, 2016. [The Committee] called the FEC help line, at which time the operator was able to identify settings which needed to be changed to allow the entries to be properly processed and the report filed. As it turned out, by uninstalling and reinstalling the software, certain settings returned to default and had to be reentered. [The Committee] made good faith efforts to timely file its report, has a history of doing so, and did file just one week past the due date.

Counsel also requests that if the fine is not waived, that it be recalculated properly. Counsel states:

The due date was January 31, 2016, a Sunday. Thus, [the Committee] had until the close of the next business day, Monday, February 1, 2016, to file the report. Under FEC regulations, the due date is excluded in calculating any fines. 11 CFR 111.2. Accordingly, the fine should only be assessed for February 2, 2016 through the date of filing, February 8, 2016, seven days rather than eight.

Analysis

The respondents contend they first attempted to file the 2015 Year-End Report on January 28, 2016 but were prevented from doing so due to technical issues with FECFile. They explain that they were required to uninstall and reinstall FECFile and subsequently received "...error messages preventing the entries from being processed." The respondents also explain that due to other pressing matters, the Committee was not able to devote the necessary time to resolve the technical issues until February 8, 2016.

According to the Manager of the Commission's Electronic Filing Office ("EFO"), there is no indication of any problem with the Commission's computers or electronic filing system that would have caused FECFile to malfunction or otherwise prevented the Committee from timely filing the 2015 Year-End Report. In addition, there is no indication that the Committee uninstalled and manually reinstalled FECFile on or after January 28, 2016, as indicated in the challenge. EFO records indicate that the Committee last manually reinstalled FECFile on January 14, 2016, a day after EFO advised the Committee to disregard the virus warning messages triggered by the Committee's anti-virus software upon installation. Records further indicate the Committee did not request any additional installation support on or around January 28, 2016.

The Committee first contacted EFO regarding the 2015 Year-End Report on February 5, 2016, 8 days after their initial attempt to file the report failed. EFO records indicate that Ms. Rebecca Wazny called and left a voicemail asking for assistance with validation errors, which the challenge refers to as "...error messages preventing the entries from being processed."¹ EFO staff returned Ms. Wazny's call the same day and left a message encouraging her to call EFO if assistance was still needed. Ms. Wazny did not call EFO again until February 8, 2016. EFO staff provided the necessary assistance to resolve the validation errors, and the Committee successfully filed the 2015 Year-End Report that same day, 8 days late.²

Had the Committee contacted EFO when they first became aware of the technical issues on January 28, 2016, their problems likely could have been resolved prior to the January 31, 2016 filing deadline. Moreover, failure to use filing software properly and unavailability of committee staff are both included at 11 C.F.R. § 111.35(d) as examples of circumstances that will not be considered reasonably unforeseen and beyond the respondents' control. In addition, a committee's history of compliance is not considered. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a).

The respondents also contend that the Commission incorrectly calculated the civil money penalty. Specifically, the respondents state that since the January 31, 2016 filing deadline was on a Sunday, they had until the close of business on February 1, 2016 to timely file the report. However, the Commission's filing deadlines are not extended when they fall on a nonworking day. The Reviewing Officer confirms that the report was filed 8 days late, and the Commission correctly calculated the RTB civil money penalty in accordance with the schedule of penalties at 11 C.F.R. § 111.43. Therefore, the Reviewing Officer recommends that the Commission assess a \$2,500 civil money penalty.

¹ FECFile automatically performs a validation process on committee-entered data before a report can be successfully uploaded. If certain validation checks fail, the Committee must correct the data issues before uploading the report.

² On February 8, 2016, an updated version of FECFile was released and made available for automatic update. Neither the respondents' challenge nor EFO records indicate the Committee experienced technical difficulties relating to this update.

OAR Recommendations

- 1) Adopt the Reviewing Officer recommendation for AF# 3044 involving International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer in making the final determination;
- 2) Make a final determination in AF# 3044 that International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$2,500 civil money penalty; and
- 3) Send the appropriate letter.

Attachments

Attachment 1 -

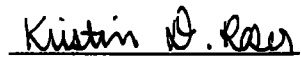
Attachment 2 -

Attachment 3 - Declaration from RAD

Attachment 4 - Declaration from OAR

DECLARATION OF KRISTIN D. ROSER

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to International Union of Operating Engineers Local 139:
 - A) Reason-to-Believe Letter, dated April 22, 2016 referencing the 2015 Year-End Report (sent via overnight mail to the address of record).
4. I hereby certify that I have searched the Commission's public records and find that International Union of Operating Engineers Local 139 filed the 2015 Year-End Report with the Commission on February 8, 2016.
5. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 24th day of May, 2016.


Kristin D. Roser
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission

DECLARATION OF RHIANNON MAGRUDER

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) A political committee not authorized by a candidate which is filing on a quarterly basis in a non-election year shall file a semi-annual Year-End Report no later than January 31 of the following calendar year. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on January 31, 2016 for the 2015 Year-End Report to be timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
 - a) Cover page of the 2015 Year-End Report filed by International Union of Operating Engineers Local 139 and Terrance McGowan, in his official capacity as Treasurer. The report was electronically filed on February 8, 2016.
 - b) Cover page, Summary Page, and Detailed Summary Pages of the Amended 2015 Year-End Report filed by International Union of Operating Engineers Local 139 and Terrance McGowan, in his official capacity as Treasurer. The report was electronically filed on March 16, 2016.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 8th day of July, 2016.



Rhiannon Magruder
Reviewing Officer
Office of Administrative Review
Federal Election Commission

Image# 201602089008442942

PAGE 1 / 10

**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines. 12FE4M5

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139

ADDRESS (number and street) PO BOX 130

Check if different
than previously
reported. (ACC)

PEWAUKEE

WI

53072

2. FEC IDENTIFICATION NUMBER ▼ CITY ▲ STATE ▲ ZIP CODE ▲

C C00423731

3. IS THIS REPORT X NEW (N) OR AMENDED (A)

4. TYPE OF REPORT
(Choose One)(b) Monthly
Report
Due On:

Feb 20 (M2)

May 20 (M5)

Aug 20 (M8)

Nov 20 (M11)
(Non-Election
Year Only)

Mar 20 (M3)

Jun 20 (M6)

Sep 20 (M9)

Dec 20 (M12)
(Non-Election
Year Only)

(a) Quarterly Reports:

Apr 20 (M4)

Jul 20 (M7)

Oct 20 (M10)

Jan 31 (YE)

April 15
Quarterly Report (Q1)July 15
Quarterly Report (Q2)October 15
Quarterly Report (Q3)(c) 12-Day
PRE-Election
Report for the:

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

X January 31
Year-End Report (YE)

Election on

in the
State ofJuly 31 Mid-Year
Report (Non-election
Year Only) (MY)(d) 30-Day
POST-Election
Report for the:

General (30G)

Runoff (30R)

Special (30S)

Termination Report
(TER)

Election on

in the
State of

5. Covering Period 07 01 2015 through 12 31 2015

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Mr. Terrance Edward McGowan

Signature of Treasurer Mr. Terrance Edward McGowan [Electronically Filed] Date 01 31 2016

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office
Use
Only**FEC FORM 3X**
Rev. 12/2004

FE6AND26

**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines. 12FE4M5

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139

ADDRESS (number and street) PO BOX 130

Check if different
than previously
reported. (ACC)

PEWAUKEE

WI

53072

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

C C00423731

3. IS THIS
REPORTNEW
(N)

OR

X

AMENDED
(A)4. TYPE OF REPORT
(Choose One)(b) Monthly
Report
Due On:

Feb 20 (M2)

May 20 (M5)

Aug 20 (M8)

Nov 20 (M11)
(Non-Election
Year Only)

Mar 20 (M3)

Jun 20 (M6)

Sep 20 (M9)

Dec 20 (M12)
(Non-Election
Year Only)

Apr 20 (M4)

Jul 20 (M7)

Oct 20 (M10)

Jan 31 (YE)

April 15
Quarterly Report (Q1)July 15
Quarterly Report (Q2)October 15
Quarterly Report (Q3)X January 31
Year-End Report (YE)July 31 Mid-Year
Report (Non-election
Year Only) (MY)Termination Report
(TER)(c) 12-Day
PRE-Election
Report for the:

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

(d) 30-Day
POST-Election
Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

in the
State of

Election on

in the
State of

5. Covering Period 07 01 2015 through 12 31 2015

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Mr. Terrance Edward McGowan

Signature of Treasurer

Mr. Terrance Edward McGowan

[Electronically Filed]

Date

03

16

2016

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office
Use
Only**FEC FORM 3X**
Rev. 12/2004

**SUMMARY PAGE
OF RECEIPTS AND DISBURSEMENTS**

FEC Form 3X (Rev. 02/2003)

Page 2

Write or Type Committee Name

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139

Report Covering the Period: From: 07 01 2015 To: 12 31 2015

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. (a) Cash on Hand January 1, 2015		27403.17
(b) Cash on Hand at Beginning of Reporting Period.....	19130.21	
(c) Total Receipts (from Line 19)	128176.81	175903.85
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	147307.02	203307.02
7. Total Disbursements (from Line 31)	83000.00	139000.00
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	64307.02	64307.02
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	0.00	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	0.00	

This committee has qualified as a multicandidate committee. (see FEC FORM 1M)

For further information contact:

Federal Election Commission
999 E Street, NW
Washington, DC 20463

Toll Free 800-424-9530
Local 202-694-1100

DETAILED SUMMARY PAGE of Receipts

FEC Form 3X (Rev. 06/2004)

Page 3

Write or Type Committee Name

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139

Report Covering the Period: From: 07 01 2015 To: 12 31 2015

I. Receipts	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
11. Contributions (other than loans) From:		
(a) Individuals/Persons Other Than Political Committees		
(i) Itemized (use Schedule A).....	128176.81	128176.81
(ii) Unitemized.....	0.00	47727.04
(iii) TOTAL (add Lines 11(a)(i) and (ii))..... ►	128176.81	175903.85
(b) Political Party Committees.....	0.00	0.00
(c) Other Political Committees (such as PACs).....	0.00	0.00
(d) Total Contributions (add Lines 11(a)(iii), (b), and (c)) (Carry Totals to Line 33, page 5)..... ►	128176.81	175903.85
12. Transfers From Affiliated/Other Party Committees.....	0.00	0.00
13. All Loans Received.....	0.00	0.00
14. Loan Repayments Received.....	0.00	0.00
15. Offsets To Operating Expenditures (Refunds, Rebates, etc.) (Carry Totals to Line 37, page 5).....	0.00	0.00
16. Refunds of Contributions Made to Federal Candidates and Other Political Committees.....	0.00	0.00
17. Other Federal Receipts (Dividends, Interest, etc.).....	0.00	0.00
18. Transfers from Non-Federal and Levin Funds		
(a) Non-Federal Account (from Schedule H3).....	0.00	0.00
(b) Levin Funds (from Schedule H5).....	0.00	0.00
(c) Total Transfers (add 18(a) and 18(b))..	0.00	0.00
19. Total Receipts (add Lines 11(d), 12, 13, 14, 15, 16, 17, and 18(c))..... ►	128176.81	175903.85
20. Total Federal Receipts (subtract Line 18(c) from Line 19)..... ►	128176.81	175903.85

DETAILED SUMMARY PAGE of Disbursements

FEC Form 3X (Rev. 02/2003)

Page 4

II. Disbursements	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
21. Operating Expenditures:		
(a) Allocated Federal/Non-Federal Activity (from Schedule H4)		
(i) Federal Share	0.00	0.00
(ii) Non-Federal Share.....	0.00	0.00
(b) Other Federal Operating Expenditures	0.00	0.00
(c) Total Operating Expenditures (add 21(a)(i), (a)(ii), and (b))	0.00	0.00
22. Transfers to Affiliated/Other Party Committees.....	0.00	0.00
23. Contributions to Federal Candidates/Committees and Other Political Committees	83000.00	139000.00
24. Independent Expenditures (use Schedule E)	0.00	0.00
25. Coordinated Party Expenditures (2 U.S.C. §441a(d)) (use Schedule F).....	0.00	0.00
26. Loan Repayments Made.....	0.00	0.00
27. Loans Made.....	0.00	0.00
28. Refunds of Contributions To:		
(a) Individuals/Persons Other Than Political Committees	0.00	0.00
(b) Political Party Committees	0.00	0.00
(c) Other Political Committees (such as PACs).....	0.00	0.00
(d) Total Contribution Refunds (add Lines 28(a), (b), and (c)).....	0.00	0.00
29. Other Disbursements	0.00	0.00
30. Federal Election Activity (2 U.S.C. §431(20))		
(a) Allocated Federal Election Activity (from Schedule H6)		
(i) Federal Share	0.00	0.00
(ii) "Levin" Share.....	0.00	0.00
(b) Federal Election Activity Paid Entirely With Federal Funds	0.00	0.00
(c) Total Federal Election Activity (add Lines 30(a)(i), 30(a)(ii) and 30(b))....	0.00	0.00
31. Total Disbursements (add Lines 21(c), 22, 23, 24, 25, 26, 27, 28(d), 29 and 30(c))..	83000.00	139000.00
32. Total Federal Disbursements (subtract Line 21(a)(ii) and Line 30(a)(ii) from Line 31).....	83000.00	139000.00

DETAILED SUMMARY PAGE
of Disbursements

FEC Form 3X (Rev. 02/2003)

Page 5

III. Net Contributions/Operating Expenditures	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
33. Total Contributions (other than loans) (from Line 11(d), page 3)	128176.81	175903.85
34. Total Contribution Refunds (from Line 28(d))	0.00	0.00
35. Net Contributions (other than loans) (subtract Line 34 from Line 33)	128176.81	175903.85
36. Total Federal Operating Expenditures (add Line 21(a)(i) and Line 21(b))	0.00	0.00
37. Offsets to Operating Expenditures (from Line 15, page 3).....	0.00	0.00
38. Net Operating Expenditures (subtract Line 37 from Line 36)	0.00	0.00



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

July 20, 2016

Brian C. Hlavin
Baum Sigman Auerbach & Neuman, Ltd.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231

C00423731
AF#: 3044

Dear Mr. Hlavin:

On March 31, 2016, the Federal Election Commission ("Commission") found reason to believe ("RTB") that International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) for failing to file the 2015 Year-End Report. The Commission also made a preliminary determination that the civil money penalty was \$2,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing your written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Rhiannon Magruder".

Rhiannon Magruder
Reviewing Officer
Office of Administrative Review



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2016 AUG 17 AM 11:31

August 17, 2016

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer
Staff Director *AP*

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Rhiannon Magruder
Reviewing Officer *RM*
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 3044 – International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer (C00423731)

On March 31, 2016, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2015 Year-End Report and made a preliminary determination that the civil money penalty was \$2,500 based on the schedule of penalties at 11 C.F.R. § 111.43.

On May 12, 2016, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated July 8, 2016 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$2,500 civil money penalty.

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). On August 17, 2016, counsel stated a response would not be submitted, and the respondents intend to pay.

16-1027-1000

- 1) Adopt the Reviewing Officer recommendation for AF# 3044 involving International Union of Operating Engineers Local 139 and Terrance E. McGowan. in his official capacity as Treasurer in making the final determination;
- 2) Make a final determination in AF# 3044 that International Union of Operating Engineers Local 139 and Terrance E. McGowan. in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$2,500 civil money penalty; and
- 3) Send the appropriate letter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 3044
Final Determination Recommendation:)
International Union of Operating)
Engineers Local 139 and Terrance E.)
McGowan, in his official capacity as)
Treasurer (C00423731))

CERTIFICATION


I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on September 02, 2016, the Commission decided by a vote of 6-0 to take the following actions in AF# 3044:

1. Adopt the Reviewing Officer Recommendation for AF# 3044 involving International Union of Operating Engineers Local 139 and Terrance McGowan, in his official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 3044 that International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$2,500 civil money penalty.
3. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther and Weintraub voted affirmatively for the decision.

Attest:

September 2, 2016
Date


Shawn Woodhead Werth
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

September 8, 2016

Brian C. Hlavin
Baum Sigman Auerbach & Neuman, Ltd.
200 West Adams Street, Suite 2200
Chicago, IL 60606-5231

International Union of Operating Engineers Local 139
C00423731
AF#: 3044

Dear Mr. Hlavin:

On March 31, 2016, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to file the 2015 Year-End Report. By letter dated March 31, 2016, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$2,500 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On May 12, 2016, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty in the amount of \$2,500 in accordance with 11 C.F.R. § 111.43. The Reviewing Officer Recommendation was sent to you on July 20, 2016.

On September 2, 2016, the Commission adopted the Reviewing Officer's recommendation and made a final determination that International Union of Operating Engineers Local 139 and Terrance E. McGowan, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assessed a civil money penalty in the amount of \$2,500. A copy of the Final Determination Recommendation is attached.

At this juncture, the following courses of action are available to you:

1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the U.S. District Court for the district in which the committee or you reside, or transact business, requesting that the final determination be modified or set aside. See 52 U.S.C. § 30109(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 52 U.S.C. § 30109. 11 CFR § 111.38.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq.* If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact you to request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

Actions which may be taken to enforce recovery of a delinquent debt by Treasury may also include: (1) offset of any payments, which the debtor is due, including tax refunds and salary; (2) referral of the debt to agency counsel for litigation; (3) reporting of the debt to a credit bureau; (4) administrative wage garnishment; and (5) reporting of the debt, if discharged, to the IRS as potential taxable income. In addition, under the provisions of DCIA and other statutes applicable to the FEC, the debtor may be subject to the assessment of other statutory interest, penalties, and administrative costs.

In accordance with the DCIA, at your request, the agency will offer you the opportunity to inspect and copy records relating to the debt, the opportunity for a review of the debt, and the opportunity to enter into a written repayment agreement.

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the civil money penalty, follow the payment instructions on page 4 of this letter. You should make payment within thirty (30) days of receipt of this letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assessed upon making a final determination.

10-10-2010-12

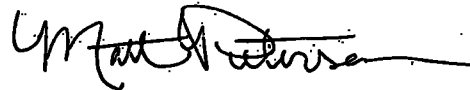
5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assessed upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen
Chair

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$2,500 for the 2015 Year-End Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission
PO Box 979058
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: International Union of Operating Engineers Local 139

FEC ID#: C00423731

AF#: 3044

PAYMENT AMOUNT DUE: \$2,500

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 3044

WITNESS